

Minutes
Well Contractors Certification Commission Meeting
May 2, 2017
Raleigh, NC

The regularly scheduled meeting of the Well Contractors Certification Commission was called to order on Tuesday, May 2, 2017 at **11:00 am** at 5605 Six Forks Rd. ("Bldg. 3"), Raleigh, NC, 1st Floor, Cardinal Conference Rm. with Chairman Daniel Ortiz presiding. The following persons were in attendance for the meeting:

Commission Members

David Brown
Justin Barefoot
Doug McVey
Daniel Ortiz
Thomas Whitehead
Billy Yow

WCC Staff

Andrew Morgan
Joanne Rutkofske

DHHS Staff

Nancy Deal
Leslie Easter

Legal Staff

John Barkley

Guests

Craig Caldwell, DEQ/DWR/Planning

I. Preliminary Matters

(1) Chairman Daniel Ortiz welcomed everyone in attendance and called the meeting to order. He then read the NC State Government Ethics Act which mandates that the Chairman inquire as to whether any member knows of a conflict of interest or appearance of conflict with respect to matters before the Commission. He asked if any member knows of a conflict of interest or appearance of a conflict. No conflicts noted.

(2) The chairman also read a statement on the purpose of the Well Contractors Certification Commission: (Article 7A-Well Contractors Certification, G.S. 87-98.3). **Purpose:** It is the purpose of this Commission to protect the public health and safety by ensuring the integrity and competence of well contractors, to protect and beneficially develop the groundwater resources of the State, to require the examination of well contractors and the certification of their competency to supervise or conduct well contractor activity, and to establish procedures for the examination and certification of well contractors.

(3) Notation of Any Revisions or Additions to the Agenda

Chairman Ortiz asked the Commissioners if they had any additions or revisions to add to today's agenda. Commissioner Brown requested an additional topic of county permits. The topic is to be added to Informational Items. Commissioner Whitehead requested an additional topic of revisiting moving WCCC back to DEQ. The topic is to be added to Action Items.

II. Action Items

(1) Approval of Minutes

The Commission reviewed the February 7, 2017 meeting minutes. Commissioner McVey made a motion that the minutes be approved. Commissioner Whitehead made a second to the motion. A vote was taken and the motion passed unanimously.

(2) VA Trainee Eligible for Reciprocity?

Chairman Ortiz reviewed the information provided in the meeting packet and Drew Morgan further explained the clarification request. In Virginia, a "Trainee" well contractor works under the guidance of a Master Driller well contractor for three years, but is not required to be personally supervised by that person on site.

Commissioner Yow made a motion that a VA Trainee would not be eligible for certification via reciprocity, only a Journeyman or Master Driller. Commissioner Brown made a second to the motion. A vote was taken and the motion passed unanimously.

(3) Appointment of Review Committee Chair to fill in at June 10 meeting

Commissioner Brown will not be able to attend the June 10, 2017 Review Committee meeting. Commissioner Yow will be present and volunteered to fill in. The full Commission was in agreement.

(4) Appointment of New Budget Committee Chair

Commissioner Whitehead is the current Budget Committee chair but his term ends June 30, 2017. Drew Morgan recommended making the new appointment effective July 1, after Commissioner Whitehead's term expires. Chairman Ortiz asked for any volunteers. Commissioner Yow volunteered.

Commissioner Brown made a motion for Billy Yow become the new Budget Committee chair starting July 1, 2017. Commissioner Whitehead made a second to the motion. A vote was taken and the motion passed unanimously.

Staff pointed out that Commissioner Yow is already on the Budget Committee, so an additional appointment is still needed for the Budget Committee. Commissioner McVey volunteered with a request that the Review Committee meet on the same day.

Commissioner Yow made a motion for Commissioner McVey to serve on the Budget Committee. Commissioner Whitehead made a second to the motion. A vote was taken and the motion passed unanimously.

(5) 2017 Commission Meeting Locations

The Commission discussed having future Commission meetings in alternate locations such as Hillsborough to be more centralized for all commissioners. Staff is to look into room availability.

Commissioner Yow made a motion for the Commission to meet in alternate locations in the state. Commissioner McVey made a second to the motion. A vote was taken and the motion passed unanimously.

(6) Department Letter in Response to Budget Committee Decisions

Commissioner Whitehead summarized Budget Committee decisions made at the February 3, 2017 Budget Committee meeting in a letter to Section Chief Larry Michael.

Commissioner Yow expressed that the Commission is appointed to provide service to the well contractors. The contractors pay a fee and the Budget Committee exercises the authority to use those fees to better the certification process. For example, staff needs a dependable vehicle for staff to attend drilling events, continuing education, and to perform required field observations of applicants. Commissioner Yow does not consider Motor Pool vehicles to be dependable from what he has experienced in government work, that they are not a viable option. He is in support of the staff vehicle being upgraded. Educational outreach materials to distribute with the website on it also support public safety by informing the public. Commissioners expressed frustration and confusion over Commission decisions being denied by the Department when the commissioners are all appointed positions, appointed by the Senate, House and Governor, to oversee the program.

Chairman Ortiz invited the On-Site Water Protection Branch Head Nancy Deal to the floor to answer Commission questions on this matter.

Commissioner Whitehead stated for staff to attend and have a booth at events including national events being critical to see new technologies, stay up to speed, and to make an impact by providing representation of North Carolina on a national level.

Commissioner McVey expressed concern and frustration over several requests being denied.

Nancy Deal explained that the Budget Department must view expenditure requests with the same policies used for the rest of the Division and Department. Requests for travel to conferences have not been denied in the recent past. Requests for outreach items such as t-shirts and clips to hand out at conferences are not seen as in line with being within state government. Nancy Deal stated the Division has been consistent in its decisions on those requests.

Few Commissions are housed in state government. Those that are are mostly over in DEQ. Very few groups own a vehicle, Motor Pool vehicles are usually used. The Commission does not have to get rid of their existing vehicle but Budget does not advocate spending dollars on a new one.

Commissioner Yow stated that this is not state money, it is the Well Drillers Fund. State law requires contractors to hold a certification and pay a fee each year. It's their money that comes here. The Commission's job is to keep things in order and provide a service to the contractors. If they see a violator, they should call the number provided on their card so staff can respond. There have been instances where staff was not allowed to go investigate a complaint.

Nancy Deal responded that that denial was an error. She emphasized that the Commission is housed within a state government agency and business is done differently within a state government agency. If the commission is questioning an expenditure denial that is a question for Budget and not the Section.

Commissioner Yow stated that several counties and departments in the state of North Carolina have shirts and hats that they distribute out at the shows. The Certification Commission is mandated by the state, so why is it upsetting for the Commission to provide similar outreach materials that people can actually wear around daily to help publicize that there is a protection source here, a website to go to, it's a resource to use, and we're denied to have that. It is important to get the word out abroad about this resource, that we are here, they don't know how to get ahold of us. This is an affordable way to do that.

Commissioner Yow asked Nancy Deal what justifies the Budget Department denying the Commission what they choose to do.

Nancy Deal responded that the Division consults with the Division Budget Director on what Commission requests are appropriate to approve. She recommended that the Commission make their case with the Division Budget Department regarding denied items they feel are justified.

Commissioner Yow suggested the Commission should invite Division Budget representatives to come to the next Commission meeting to explain what the Commission is supposed to do. Chairman Ortiz asked Mrs. Deal who they should invite. Nancy Deal responded that Pat Ward is the budget officer, and Allen Hawks may also be included. John Barkley suggested Allen Hawks

would be the best person to speak with as he oversees the DPH Budget Office. He would however still be subject to the Division Director's approval.

Chairman Ortiz directed staff to invite Allen Hawks to the next Commission meeting.

(7) Legislative Committee Review of Occupational Boards

Commission Legal Advisor John Barkley addressed the topic. A special committee was appointed by the Legislature to look into the possibility of combining and eliminating some occupational licensing boards. Out of that committee has come legislation that creates some additional requirements for occupational licensing boards, a new definition of occupational licensing boards, and provisions that deal with oversight of occupational licensing boards.

House Bill 701 has made it through the House and is awaiting crossover. In the proposed bill, the definition of "Occupational Licensing Board" is being changed to: "Any board, committee, or other agency in North Carolina which receives no General Fund revenue and is given statutory authority to do all of the following: Determine minimum qualifications required for licensure for a particular profession or occupation. Issue licenses to qualified applicants. Regulate the conduct of licensees within a particular profession or occupation. Seek injunctive relief to prohibit unlicensed individuals or entities from engaging in certain activities as defined by statute. Collect fees to support agency operations."

"Occupational licensing boards include only those boards specifically identified in this subsection..." The Well Contractors Certification Commission was not included with those boards and commissions specified in the bill. Other Boards currently housed in DEQ were also not on the list. There may be something with the interpretation being different for boards working within a Department that have state employees as staff.

John Barkley recommended commissioners contact their legislative representatives about being added to the list, and for staff to contact those other Boards not on the list to see if they know why. Commissioner Yow stated he would contact his representative.

John Barkley also reported on another bill, Senate Bill 008 which waives the application fee for military personnel. This bill has made crossover.

(8) Move Commission Back to DEQ or Go Independent?

Chairman Ortiz introduced the topic. There appears to be very few occupational licensing boards that operate within a Department. Most run independently. Commissioner Whitehead asked about the fiscal impact of a move.

John Barkley recommended not finalizing any decisions until the Commission sees how House Bill 701 plays out. Commissioner Yow suggested the Well Contractors Commission and DEQ Boards not being included on the list may be a simple oversight.

Commissioner Yow recommended a third party do a cost analysis of going independent. Chairman Ortiz agreed that the information would help the Commission make an informed decision and could be used when going to the legislature to request a change. Commissioner Ortiz recommended the Budget Committee look into it. Commissioner Yow stated a non-biased third party may be able to do a more detailed and thorough analysis. Nancy Deal volunteered to go check right then with Budget to see if we could hire a third party for this analysis.

Mrs. Deal reported back that she had spoken with Pat Ward in the Budget Office. The Budget Office offered their services if the Commission would like them to do an analysis for free. If the Commission would still like to use a third party, they would need to do so using a contract that goes out for bid. The Commission was clear that they wanted a more removed third party to conduct the analysis, not DPH Budget.

Commissioner Yow made a motion to proceed with getting a contract set up to have a third party analysis of the Commission moving independent. Commissioner Brown made a second to the motion. A vote was taken, one opposed, and the motion passed.

III. Information Items

(1) 10-Year Required Periodic Rules Review

Joanne Rutkofske updated the Commission on this topic. The RRC met and approved our request to review our Periodic Rules Review report at an earlier meeting. The Periodic Rules Review report will now be reviewed at the May 18, 2017 meeting of the RRC.

According to the DEQ Rulemaking Coordinator, now would be the time to add any additional rule language desired as the rules will need to go out for public comment again as part of this review process. Staff pointed out that Section .0101 will need to be updated to reflect the name change of DENR to DEQ.

Chairman Ortiz asked about the public comments received from the first public comment period. The Commission reviewed the comments received.

Commissioner McVey made a motion to approve 15A NCAC 27 .0101 as updated to go out for public comment. Commissioner Whitehead made a second to the motion. A vote was taken and the motion passed unanimously.

(2) Staff Report

The staff report was presented by Drew Morgan. The report listed out-of-cycle exams, exam reviews, civil penalties assessed, outreach events and other staff activities that occurred between January and April 2017. An overview of exam statistics was also included.

Joanne Rutkofske presented the exam statistics overview. Mrs. Rutkofske is also working on a refresh of the exams which she explained to the Commission. The Review Committee authorized reducing the overall number of questions on levels A, B and C exams from 110 back down to 100,

and for Level D back down to 75. The Committee also directed a review of the last 20 exams to look for any questions that were missed at a higher frequency. Mrs. Rutkofske is reviewing the exams and plans to have all levels updated by the start of the new certification period, July 1. This also lines up with the exam statistics tracker to facilitate seeing what effect these changes will have on the exam pass rate.

(3) Review Committee Report

Commissioner Brown presented the Review Committee report for Committee meetings held February 2017 – April 2017. The Review Committee had reviewed 28 applications for certification and reviewed 10 continuing education courses for pre-approval.

The Review Committee discussed the exam pass rate and would like to see it increase to at least 50%. The pass rate actually came up some when the exams went closed-book but the pass rate is not yet optimal.

(4) Budget Committee Report

The Budget Committee report was presented by Commissioner Whitehead. The Committee met in Greensboro in conjunction with the NCGWA Tradeshow. The Committee reviewed the status of past requests and approved staff to have a booth at the National Ground Water Association event in Nashville, TN in December 2017.

(5) Ethics Update

Joanne Rutkofske provided the Ethics update reminding Commissioners of the annual Statement of Economic Interest requirement and who would need required ethics training soon. A tracking list of when each Commissioner must obtain additional Ethics training was provided. A newsletter of advisory opinions from the NC State Ethics Commission was also included.

V. Upcoming Meetings

Commission Meeting – August 1, 2017 @ 11am, Hillsborough, NC

Review Committee – June 10, 2017 @ 10:30am, at JUBILEE, Myrtle Beach, SC

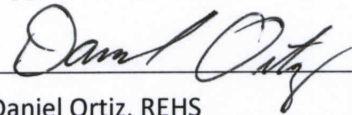
Budget Committee – June 10, 2017 @ 11am, at JUBILEE, Myrtle Beach, SC

VI. Adjournment

With no further business or comments from Commission or Staff, the meeting was adjourned at 1:29 p.m.

Respectfully submitted,
Joanne Rutkofske
WCC Staff

Approved by WCCC:



Daniel Ortiz, REHS
Chairman, Well Contractors Certification Commission
www.wellcontractors.nc.gov

8-1-17

Date